

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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NAMIT BHATNAGAR,

Plaintiff,

v.

MEDCO HEALTH, LLC,

Defendant.

2:11-CV-00914-PMP-LRL

ORDER

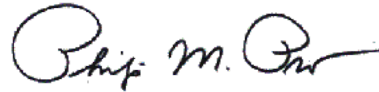
Per the Order (Doc. #27) of the United States Court of Appeals for the Ninth Circuit, Plaintiff Namit Bhatnagar raised for the first time in his reply brief on appeal that he was never a member of the union, and thus removal on the basis of the Labor Management Relations Act was improper. As noted by the Ninth Circuit, because this raises a question as to the Court's subject matter jurisdiction, the Court must address it even though Plaintiff raised the issue for the first time in a reply brief on appeal. The Ninth Circuit thus remanded to this Court for the limited purpose of determining whether Plaintiff's employment was governed by a collective bargaining agreement and whether removal was proper under the Labor Management Relations Act.

As Defendant Medco Health, LLC already has asserted its position regarding subject matter jurisdiction in its Petition for Removal (Doc. #1), Motion to Dismiss (Doc. #6), and Response to Plaintiff's Opposition to Removal (Doc. #11), the Court will direct Plaintiff to file a brief with any arguments and evidence supporting his position that this Court lacks subject matter jurisdiction on or before February 28, 2013. Defendant shall file a reply brief on or before March 20, 2013.

1 IT IS THEREFORE ORDERED that Plaintiff Namit Bhatnagar shall file a brief
2 regarding this Court's subject matter jurisdiction with any supporting evidence on or before
3 February 28, 2013.

4 IT IS FURTHER ORDERED that Defendant Medco Health, LLC shall file a
5 reply brief with any supporting evidence on or before March 20, 2013.

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7 DATED: January 28, 2013

A handwritten signature in black ink, appearing to read "Philip M. Pro", written over a horizontal line.

8 PHILIP M. PRO
9 United States District Judge
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